



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBa1328/2
GMM:mfd:hmh

**ASSEMBLY AMENDMENT 1,
TO 1997 ASSEMBLY BILL 602**

January 8, 1998 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 7, line 1: delete the material beginning with that line and ending with
3 page 9, line 9, and substitute:

4 “**SECTION 2d.** 20.435 (3) (cz) of the statutes, as created by 1997 Wisconsin Act
5 27, is amended to read:

6 20.435 (3) (cz) (title) *Foster care services, kinship care, long-term kinship care*
7 *and aid to minor custodial parents.* The amounts in the schedule for the cost of foster
8 care and treatment foster care provided by nonlegally responsible relatives under s.
9 46.261 (2) (a) 3. or 4., for kinship care payments under s. 48.57 (3m), for long-term
10 kinship care payments under s. 48.57 (3n) and for aid to minor custodial parents
11 under s. 46.261 (2) (a) 1.

12 **SECTION 3d.** 20.435 (3) (kc) of the statutes, as created by 1997 Wisconsin Act
13 27, is amended to read:

1 20.435 (3) (kc) (title) *Interagency and intra-agency aids; kinship care and*
2 *long-term kinship care*. The amounts in the schedule for payments under s. 48.57
3 (3m) and (3n). All moneys transferred from the appropriation account under s.
4 20.445 (3) (md) to this appropriation account shall be credited to this appropriation
5 account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30
6 of each year is transferred to the appropriation account under s. 20.445 (3) (ky).

7 **SECTION 4d.** 20.435 (3) (kd) of the statutes, as created by 1997 Wisconsin Act
8 27, is amended to read:

9 20.435 (3) (kd) (title) *Kinship care and long-term kinship care assessments*.
10 The amounts in the schedule for assessments of kinship care relatives, as defined in
11 s. 48.57 (3m) (a), and long-term kinship care relatives, as defined in s. 48.57 (3n) (a),
12 who provide care and maintenance for children to determine if those kinship care
13 relatives and long-term kinship care relatives are eligible to receive payments under
14 s. 48.57 (3m) or (3n). All moneys transferred from the appropriation account under
15 s. 20.445 (3) (md) to this appropriation account shall be credited to this appropriation
16 account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30
17 of each year is transferred to the appropriation account under s. 20.445 (3) (ky).

18 **SECTION 4g.** 20.445 (3) (r) of the statutes, as created by 1997 Wisconsin Act 27,
19 is amended to read:

20 20.445 (3) (r) *Support receipt and disbursement program; payments*. From the
21 support collections trust fund, all moneys received under ss. 767.265 and 767.29 for
22 child or family support, maintenance, spousal support, health care expenses or birth
23 expenses, and all other moneys received under judgments or orders in actions
24 affecting the family, as defined in s. 767.02 (1), for disbursement to the persons for
25 whom the payments are awarded and for transfer to the appropriation account under

1 par. (k) if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19
2 (4) (h) 1. b. or 49.775 (2) (bm). Estimated disbursements under this paragraph shall
3 not be included in the schedule under s. 20.005.

4 **SECTION 4r.** 48.48 (17) (a) 10. of the statutes, as created by 1997 Wisconsin Act
5 27, is amended to read:

6 48.48 **(17)** (a) 10. Administer kinship care and long-term kinship care as
7 provided in s. 48.57 (3m), (3n) and (3p).”.

8 **2.** Page 10, line 12: delete lines 12 to 16 and substitute:

9 “(am) From the appropriations under s. 20.435 (3) (cz) and (kc), the department
10 shall reimburse counties having populations of less than 500,000 for payments made
11 under this subsection and shall make payments under this subsection in a county
12 having a population of 500,000 or more. A county department and, in a county
13 having a population of 500,000 or more, the department shall make monthly
14 payments for each child in the amount specified in sub. (3m) (am) (intro.) to a
15 long-term kinship care relative who is providing care and maintenance for that child
16 if all of the following conditions are met:”.

17 **3.** Page 10, line 17: after “department” insert “or department”.

18 **4.** Page 10, line 20: after “department” insert “or department”.

19 **5.** Page 11, line 3: after “department” insert “or department”.

20 **6.** Page 11, line 19: after “department” insert “or department”.

21 **7.** Page 11, line 24: delete that line and substitute:

22 “5r. The child for whom the long-term kinship care relative is providing care
23 and maintenance is not receiving supplemental security income under 42 USC 1381
24 to 1383c or state supplemental payments under s. 49.77.

1 6. The long-term kinship care relative and the county department or
2 department enter into a”.

3 **8.** Page 12, line 1: after “department” insert “or department”.

4 **9.** Page 12, line 2: delete “(h)” and substitute “(hm)”.

5 **10.** Page 12, line 14: delete “(h), a county” and substitute “(hm), a county
6 department or, in a county having a population of 500,000 or more, the”.

7 **11.** Page 12, line 16: delete “5m.” and substitute “5r.”.

8 **12.** Page 12, line 18: after “department” insert “or, in a county having a
9 population of 500,000 or more, the department”.

10 **13.** Page 13, line 7: after “department” insert “or, in a county having a
11 population of 500,000 or more, the department”.

12 **14.** Page 13, line 13: after “department” insert “or, in a county having a
13 population of 500,000 or more, the department”.

14 **15.** Page 13, line 14: after “department” insert “or department”.

15 **16.** Page 13, line 16: after “department” insert “or department”.

16 **17.** Page 13, line 18: after that line insert:

17 “(f) Any person whose application for payments under par. (am) is not acted on
18 promptly or is denied on the grounds that a condition specified in par. (am) 1., 2., 5.,
19 5m. or 5r. has not been met and any person whose payments under par. (am) are
20 discontinued under par. (d) may petition the department under par. (g) for a review
21 of that action or failure to act. Review is unavailable if the action or failure to act
22 arose more than 45 days before submission of the petition for review.

1 (g) 1. Upon receipt of a timely petition under par. (f) the department shall give
2 the applicant or recipient reasonable notice and an opportunity for a fair hearing.
3 The department may make such additional investigation as it considers necessary.
4 Notice of the hearing shall be given to the applicant or recipient and to the county
5 department or subunit of the department whose action or failure to act is the subject
6 of the petition. That county department or subunit of the department may be
7 represented at the hearing. The department shall render its decision as soon as
8 possible after the hearing and shall send a certified copy of its decision to the
9 applicant or recipient and to the county department or subunit of the department
10 whose action or failure to act is the subject of the petition. The decision of the
11 department shall have the same effect as an order of the county department or
12 subunit of the department whose action or failure to act is the subject of the petition.
13 The decision shall be final, but may be revoked or modified as altered conditions may
14 require. The department shall deny a petition for review or shall refuse to grant
15 relief if any of the following applies:

16 a. The petitioner withdraws the petition in writing.

17 b. The sole issue in the petition concerns an automatic payment adjustment or
18 change that affects an entire class of recipients and is the result of a change in state
19 law.

20 c. The petitioner abandons the petition. Abandonment occurs if the petitioner
21 fails to appear in person or by a representative at a scheduled hearing without good
22 cause, as determined by the department.

23 2. If a recipient requests a hearing within 10 days after the date of notice that
24 his or her payments under par. (am) are being discontinued, those payments may not
25 be discontinued until a decision is rendered after the hearing but payments made

1 pending the hearing decision may be recovered by the department if the contested
2 action or failure to act is upheld. The department shall promptly notify the county
3 department of the county in which the recipient resides or, if the recipient resides in
4 a county having a population of 500,000 or more, the subunit of the department
5 administering of the long-term kinship care program in that county that the
6 recipient has requested a hearing. Payments under par. (am) shall be discontinued
7 if any of the following applies:

8 a. The recipient is contesting a state law or a change in state law and not the
9 determination of the payment made on the recipient's behalf.

10 b. The recipient is notified of a change in his or her payments under par. (am)
11 while the hearing decision is pending but the recipient fails to request a hearing on
12 the change.

13 3. The recipient shall be promptly informed in writing if his or her payments
14 under par. (am) are to be discontinued pending the hearing decision.”.

15 **18.** Page 13, line 19: delete lines 19 to 23.

16 **19.** Page 14, line 1: delete lines 1 to 3.

17 **20.** Page 14, line 10: delete lines 10 to 13 and substitute:

18 “**SECTION 11d.** 48.57 (3p) (b) 1. of the statutes, as affected by 1997 Wisconsin
19 Act 27, is amended to read:

20 48.57 (**3p**) (b) 1. After receipt of an application for payments under sub. (3m)
21 or (3n), the county department or, in a county having a population of 500,000 or more,
22 the department of health and family services, with the assistance of the department
23 of justice, shall conduct a background investigation of the applicant.”.

1 **21.** Page 14, line 15: after “county department” insert “or, in a county having
2 a population of 500,000 or more, the department of health and family services”.

3 **22.** Page 15, line 1: after “department” insert “or department of health and
4 family services”.

5 **23.** Page 15, line 3: delete lines 3 to 9 and substitute:

6 “**SECTION 13d.** 48.57 (3p) (c) 1. of the statutes, as affected by 1997 Wisconsin
7 Act 27, is amended to read:

8 48.57 (**3p**) (c) 1. After receipt of an application for payments under sub. (3m)
9 or (3n), the county department or, in a county having a population of 500,000 or more,
10 the department of health and family services, with the assistance of the department
11 of justice, shall, in addition to the investigation under par. (b) 1., conduct a
12 background investigation of all employes and prospective employes of the applicant
13 who have or would have regular contact with the child for whom those payments are
14 being made and of each adult resident.”.

15 **24.** Page 15, line 11: after “department” insert “or, in a county having a
16 population of 500,000 or more, the department of health and family services”.

17 **25.** Page 15, line 15: after “department” insert “or department of health and
18 family services”.

19 **26.** Page 15, line 17: delete that line.

20 **27.** Page 16, line 1: delete lines 1 to 7 and substitute:

21 “**SECTION 15d.** 48.57 (3p) (c) 3. of the statutes, as affected by 1997 Wisconsin
22 Acts 27 and 35, is amended to read:

1 48.57 **(3p)** (c) 3. Before a person who is receiving payments under sub. (3m) or
2 (3n) may employ any person in a position in which that person would have regular
3 contact with the child for whom those payments are being made or permit any person
4 to be an adult resident, the county department or, in a county having a population
5 of 500,000 or more, the department of health and family services, with the assistance
6 of the department of justice, shall conduct a background investigation of the
7 prospective employe or prospective adult resident unless that person has already
8 been investigated under subd. 1. ~~or~~, 2. or 2m.”.

9 **28.** Page 16, line 9: after “department” insert “or, in a county having a
10 population of 500,000 or more, the department of health and family services”.

11 **29.** Page 16, line 10: delete “that county department” and substitute “the
12 county department or department of health and family services”.

13 **30.** Page 16, line 14: after “department” insert “or, in a county having a
14 population of 500,000 or more, the person designated by the secretary of health and
15 family services to review conviction records under this subdivision”.

16 **31.** Page 16, line 15: after “director” insert “or person designated by the
17 secretary”.

18 **32.** Page 16, line 17: after “department” insert “or, in a county having a
19 population of 500,000 or more, the department of health and family services”.

20 **33.** Page 16, line 21: after “department” insert “or, in a county having a
21 population of 500,000 or more, the person designated by the secretary of health and
22 family services to review conviction records under this subdivision”.

1 **34.** Page 17, line 6: after “department” insert “or, in a county having a
2 population of 500,000 or more, the department of health and family services”.

3 **35.** Page 17, line 12: after “department” insert “or, in a county having a
4 population of 500,000 or more, the department of health and family services”.

5 **36.** Page 17, line 15: after “department” insert “or, in a county having a
6 population of 500,000 or more, the person designated by the secretary of health and
7 family services to review conviction records under this subdivision”.

8 **37.** Page 17, line 18: after “department” insert “or department of health and
9 family services”.

10 **38.** Page 17, line 23: after “department” insert “or, in a county having a
11 population of 500,000 or more, the department of health and family services”.

12 **39.** Page 18, line 2: after “department” insert “or, in a county having a
13 population of 500,000 or more, the person designated by the secretary of health and
14 family services to review conviction records under this subdivision”.

15 **40.** Page 18, line 4: delete “(h)” and substitute “(hm)”.

16 **41.** Page 18, line 5: delete “(h) A county” and substitute “(hm) A county
17 department or, in a county having a population of 500,000 or more, the”.

18 **42.** Page 18, line 9: after “department” insert “or, in a county having a
19 population of 500,000 or more, the person designated by the secretary to review
20 conviction records under this paragraph”.

21 **43.** Page 18, line 12: delete lines 12 to 17.

22 **44.** Page 19, line 1: delete lines 1 and 2 and substitute:

1 “**SECTION 19d.** 48.57 (3t) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 48.57 **(3t)** Notwithstanding subs. (3m), (3n) and (3p), the department may
4 enter into an agreement with the governing body of a federally recognized American
5 Indian tribe or band to allow that governing body to administer the program under
6 subs. (3m), (3n) and (3p) within the boundaries of that reservation. Any agreement
7 under this subsection relating to the administration of the program under sub. (3m)
8 shall specify the person with whom a request for review under sub. (3p) (h) 2. may
9 be filed and the person who has been designated by the governing body to conduct
10 the review under sub. (3p) (h) 3. and make the determination under sub. (3p) (h) 4.
11 Any agreement under this subsection relating to the administration of the program
12 under sub. (3n) shall specify who is to make any determination as to whether a
13 conviction record is satisfactory.”.

14 **45.** Page 19, line 3: delete lines 3 to 7 and substitute:

15 “**SECTION 20d.** 49.155 (1m) (a) (intro.) of the statutes, as affected by 1997
16 Wisconsin Act 27, is amended to read:

17 49.155 **(1m)** (a) (intro.) The individual is a parent of a child who is under the
18 age of 13, or is a person who, under s. 48.57 (3m) or (3n), is providing care and
19 maintenance for a child who is under the age of 13, and child care services for that
20 child are needed in order for the individual to do any of the following:”.

21 **46.** Page 19, line 8: delete lines 8 to 17 and substitute:

22 “**SECTION 20g.** 49.155 (1m) (a) 1m. b. of the statutes, as affected by 1997
23 Wisconsin Act 41, is amended to read:

1 49.155 **(1m)** (a) 1m. b. The individual has not yet attained the age of 18 years
2 and the individual resides with his or her custodial parent or with a kinship care
3 relative under s. 48.57 (3m) or with a long-term kinship care relative under s. 48.57
4 (3n) or is in a foster home or treatment foster home licensed under s. 48.62, a group
5 home or an independent living arrangement supervised by an adult.

6 **SECTION 20m.** 49.175 (1) (w) 1. of the statutes, as created by 1997 Wisconsin
7 Act 27, is amended to read:

8 49.175 **(1)** (w) 1. (title) ‘Kinship care and long-term kinship care assistance.’
9 For the kinship care program and long-term kinship care programs under s. 48.57
10 (3m), (3n) and (3p), \$15,720,400 in fiscal year 1997-98 and \$22,116,400 in fiscal year
11 1998-99.

12 **SECTION 21d.** 49.22 (6) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

14 49.22 **(6)** The department shall establish, pursuant to federal and state laws,
15 rules and regulations, a uniform system of fees for services provided under this
16 section to individuals not receiving aid under s. 46.261, 49.19 or 49.47 or benefits
17 under s. 49.148 or 49.155 and to individuals not receiving kinship care payments
18 under s. 48.57 (3m) or long-term kinship care payments under s. 48.57 (3n). The
19 system of fees may take into account an individual’s ability to pay. Any fee paid and
20 collected under this subsection may be retained by the county providing the service
21 except for the fee specified in 42 USC 653 (e) (2) for federal parent locator services.”.

22 **47.** Page 22, line 11: before that line insert:

23 “**SECTION 27g.** 49.96 of the statutes, as affected by 1997 Wisconsin Acts 27 and
24 (this act), is repealed and recreated to read:

1 **49.96 Assistance grants exempt from levy.** All grants of aid to families with
2 dependent children, payments made under ss. 48.57 (3m) or (3n), 49.148 (1) (b) 1. or
3 (c) or (1m) or 49.149 to 49.159, payments made for social services, cash benefits paid
4 by counties under s. 59.53 (21), and benefits under s. 49.77 or federal Title XVI, are
5 exempt from every tax, and from execution, garnishment, attachment and every
6 other process and shall be inalienable.

7 **SECTION 27m.** 50.065 (1) (c) 2. of the statutes, as created by 1997 Wisconsin Act
8 27, is amended to read:

9 50.065 (1) (c) 2. Kinship care under s. 48.57 (3m) or long-term kinship care
10 under s. 48.57 (3n).”.

11 **48.** Page 23, line 8: delete lines 8 to 13 and substitute:

12 **“SECTION 30d.** 767.077 (intro.) of the statutes, as affected by 1997 Wisconsin
13 Act 27, is amended to read:

14 **767.077 Support for dependent child.** (intro.) The state or its delegate
15 under s. 49.22 (7) shall bring an action for support of a minor child under s. 767.02
16 (1) (f) or, if appropriate, for paternity determination and child support under s.
17 767.45 whenever the child’s right to support is assigned to the state under s. 46.261,
18 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm) if all
19 of the following apply:”.

20 **49.** Page 25, line 16: before that line insert:

21 **“SECTION 34g.** 767.29 (2) of the statutes, as affected by 1997 Wisconsin Acts 27
22 and ... (this act), is repealed and recreated to read:

23 767.29 (2) If any party entitled to maintenance payments or support money,
24 or both, is receiving public assistance under ch. 49, the party may assign the party’s

1 right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such
2 assistance. Such assignment shall be approved by order of the court granting the
3 maintenance payments or support money, and may be terminated in like manner;
4 except that it shall not be terminated in cases where there is any delinquency in the
5 amount of maintenance payments and support money previously ordered or
6 adjudged to be paid to the assignee without the written consent of the assignee or
7 upon notice to the assignee and hearing. When an assignment of maintenance
8 payments or support money, or both, has been approved by the order, the assignee
9 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
10 of securing payment of unpaid maintenance payments or support money adjudged
11 or ordered to be paid, by participating in proceedings to secure the payment thereof.
12 Notwithstanding assignment under this subsection, and without further order of the
13 court, the department or its designee, upon receiving notice that a party or a minor
14 child of the parties is receiving public assistance under ch. 49 or that a kinship care
15 relative or long-term kinship care relative of the minor child is receiving kinship
16 care payments or long-term kinship care payments for the minor child, shall forward
17 all support assigned under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45
18 (19) to the assignee under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45
19 (19).”.

20 **50.** Page 26, line 4: delete lines 4 to 19.

21 **51.** Page 27, line 1: delete lines 1 to 11 and substitute:

22 “**SECTION 36d.** 767.32 (1) (a) of the statutes, as affected by 1997 Wisconsin Act
23 27, is amended to read:

1 767.32 (1) (a) After a judgment or order providing for child support under this
2 chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4.,
3 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or
4 family support payments under this chapter, or for the appointment of trustees
5 under s. 767.31, the court may, from time to time, on the petition, motion or order to
6 show cause of either of the parties, or upon the petition, motion or order to show cause
7 of the department, a county department under s. 46.215, 46.22 or 46.23 or a county
8 child support agency under s. 59.53 (5) if an assignment has been made under s.
9 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or
10 their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice
11 to the family court commissioner, revise and alter such judgment or order respecting
12 the amount of such maintenance or child support and the payment thereof, and also
13 respecting the appropriation and payment of the principal and income of the
14 property so held in trust, and may make any judgment or order respecting any of the
15 matters that such court might have made in the original action, except that a
16 judgment or order that waives maintenance payments for either party shall not
17 thereafter be revised or altered in that respect nor shall the provisions of a judgment
18 or order with respect to final division of property be subject to revision or
19 modification. A revision, under this section, of a judgment or order with respect to
20 an amount of child or family support may be made only upon a finding of a
21 substantial change in circumstances. In any action under this section to revise a
22 judgment or order with respect to maintenance payments, a substantial change in
23 the cost of living by either party or as measured by the federal bureau of labor
24 statistics may be sufficient to justify a revision of judgment or order with respect to

1 the amount of maintenance, except that a change in an obligor's cost of living is not
2 in itself sufficient if payments are expressed as a percentage of income.”.

3 **52.** Page 27, line 12: delete lines 12 to 20.

4 **53.** Page 28, line 1: delete lines 1 to 7 and substitute:

5 “**SECTION 37d.** 767.47 (6) of the statutes, as affected by 1997 Wisconsin Act 27,
6 is amended to read:

7 767.47 (6) (a) Whenever the state brings the action to determine paternity
8 pursuant to an assignment under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4)
9 (h) 1. or 49.45 (19), or receipt of benefits under s. 49.148, 49.155, 49.157 or 49.159,
10 the natural mother of the child may not be compelled to testify about the paternity
11 of the child if it has been determined that the mother has good cause for refusing to
12 cooperate in establishing paternity as provided in 42 USC 602 (a) (26) (B) and the
13 federal regulations promulgated pursuant to this statute, as of July 1, 1981, and
14 pursuant to any rules promulgated by the department which define good cause in
15 accordance with the federal regulations, as authorized by 42 USC 602 (a) (26) (B) in
16 effect on July 1, 1981.

17 (b) Nothing in par. (a) prevents the state from bringing an action to determine
18 paternity pursuant to an assignment under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19
19 (4) (h) 1. or 49.45 (19), or receipt of benefits under s. 49.148, 49.155, 49.157 or 49.159,
20 where evidence other than the testimony of the mother may establish the paternity
21 of the child.”.

22 **54.** Page 28, line 8: delete lines 8 to 21.

23 **55.** Page 29, line 1: delete lines 1 to 3 and substitute:

